

By the 1st sec. of the incorporating act it is declared, "that it shall and may be lawful for the said corporation or a majority of them to agree with the owners of the lands through which the canal may pass and the owners of the lands adjoining thereto, for the purchase thereof." It is obvious that the corporation is authorised to obtain by purchase lands embraced in two descriptions, to wit, "lands through which the canal passes, and lands adjoining thereto."

By the said section if the proprietors and owners of lands "through which the canal runs, and of those adjoining thereto," cannot agree on the purchase a provision is made for the *condemnation* of two hundred acres of land. It is clear the right of condemnation is not co-extensive with the right of purchase. The right of condemnation extends only to lands "through which the canal runs," and does not, like the right of purchase, embrace lands "adjoining thereto." The legislature, influenced by obvious motives, intended to distinguish the two rights—any limitation therefore imposed on the one does not necessarily attach to the other. The only limitation in the charter is to be found in the 7th sec. which declares "that not more than two hundred acres of land shall be condemned for the purposes aforesaid," and is silent as to the right of purchase. It is therefore thought there is no limitation as to the right of purchase, except such a limitation as would be enforced by the known rules of law observed in the interpretation of statutes—It is not intended to be said that the proprietors are authorised to purchase land to any extent, restrained by no law but their will. This right of purchase is co-extensive only with the quantity necessary or convenient for effectuating the purposes proposed by the act of incorporation. The establishment of the adverse proposition would exhibit the legislature of this state in the attitude of granting to these proprietors well defined rights, and withholding from them in the same instrument the means necessary for their execution.

It is true the proprietors have placed a different construction on this act—but their construction does not conclude the question. Their construction can neither abridge nor enlarge their rights even if it received the approbation of each party to the contract. Maintaining this view of the subject all legislation is deemed unnecessary, and the bill reported by the minority of the committee, should it receive the sanction of both branches of the legislature, will be is-